

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

|                                    |   |                                    |
|------------------------------------|---|------------------------------------|
| <b>ANGEL TERRELL VARGAS, JR.,</b>  | : |                                    |
| <b>Plaintiff,</b>                  | : |                                    |
|                                    | : |                                    |
| <b>v.</b>                          | : | <b>CIVIL ACTION NO. 24-CV-0765</b> |
|                                    | : |                                    |
| <b>JOSEPH J. MCCAULEY, et al.,</b> | : |                                    |
| <b>Defendants.</b>                 | : |                                    |

**ORDER**

AND NOW, this 10th day of June 2024, upon consideration of Plaintiff Angel Terrell Vargas, Jr.’s Motion for Leave to Amend Complaint (ECF No. 8) and *pro se* Amended Complaint (ECF No. 8), it is **ORDERED** that:

1. The Motion for Leave to Amend Complaint (ECF No. 8) is **DENIED** as unnecessary.
2. The Clerk of the Court is **DIRECTED** to file pages 4 through 33 of ECF No. 8 as a separate docket entry in this case, title the docket entry “Amended Complaint,” and assign a file date of April 9, 2024 to the docket entry.
3. The Clerk of Court is **DIRECTED** to add the following Defendants to the docket in this case to reflect the Amended Complaint: (1) the City of Philadelphia; (2) Mayor Jim Kenney and (4) Danielle Outlaw, Chief of Police.
4. The Amended Complaint is **DISMISSED IN PART WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons stated in the Court’s Memorandum, as follows:
  - a. The malicious prosecution claims asserted against Defendant Joseph J. McCauley pass statutory screening and may proceed to service.

b. All other claims asserted in the Amended Complaint are **DISMISSED WITHOUT PREJUDICE**.

5. The Clerk of Court is **DIRECTED** to send Vargas a blank copy of the Court's standard form complaint for prisoners to use to file a complaint bearing the above civil action number.<sup>1</sup>

6. Vargas is given thirty (30) days to file a second amended complaint in the event he can allege additional facts to state plausible Fourth Amendment and *Monell* claims against Defendants. Any second amended complaint shall identify all defendants in the caption of the second amended complaint in addition to identifying them in the body of the second amended complaint, shall state the basis for Vargas's claims against each defendant, and shall bear the title "Second Amended Complaint" and the case number 24-0765. If Vargas files a second amended complaint, it must be a complete document that includes all of the bases for Vargas's claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims. **For example, Vargas must include in his second amended complaint the allegations supporting his Fourth Amendment malicious prosecution claim against McCauley, which has not been dismissed, if Vargas seeks to proceed on that claim.** Claims that are not included in the second amended complaint will not be considered part of this case. When drafting his second amended complaint, Vargas should be mindful of the Court's reasons for dismissing his claims as explained in the Court's Memorandum. Upon the filing of a second amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

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<sup>1</sup> This form is available on the Court's website at <http://www.paed.uscourts.gov/documents/forms/frmc1983f.pdf>.

7. If Vargas does not file a second amended complaint the Court will direct service of his Amended Complaint on Defendant Joseph J. McCauley only. Vargas may also notify the Court that he seeks to proceed on the claim against McCauley rather than file a second amended complaint. If he files such a notice, Vargas is reminded to include the case number for this case, 24-0765.

8. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** to the date 90 days after the Court issues summonses in this case if summonses are issued.

**BY THE COURT:**

**/s/ Chad F. Kenney**

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**CHAD F. KENNEY, J.**